

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Morrow Analyst: Gloria McConnell Bill Number: SB 948

Related Bills: See Prior Analysis Telephone: 845-4336 Amended Date: 05/05/03

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exclusion/Income of Spouse of Member of Armed Forces Who Dies While in Active Service as a Result of Military, Combat, or Terrorist Action

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analyses of bill as introduced February 21, 2003, and amended April 21, 2003.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- ☐ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED STILL APPLIES.
- ☒ OTHER - See comments below.

SUMMARY

Under this bill, all income of a spouse of a member of the Armed Forces who dies as a result of certain military-type actions would be exempt from income taxes for the year of the member's death and the following three years.

SUMMARY OF AMENDMENTS

The May 5, 2003, amendments resolved the department's implementation considerations by using definitions that are consistent with those used in current law. Under this bill "a member of the Armed Forces of the United States" would be defined using current law. Also, the circumstances under which a member dies for purposes of exempting the spouse's income from taxation would be the same as those that under current law exempts the decedent's income from taxation.

For convenience, implementation considerations are revised to reflect the impact from these amendments, and the operative/effective date, fiscal impact, and economic impact, which still apply and were addressed in the previous analysis, are restated below.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately and apply to taxable years beginning on or after January 1, 2003.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Jana Howard for Brian Putler 5/15/03

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

“Armed Forces of the United States” is defined under state and federal law for income tax purposes (RTC Section 17022; IRC Section 7701(a)(15)) to include all regular and reserved components of the uniformed services that are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, and also includes the Coast Guard. Members also include commissioned officers and personnel below the grade of commissioned officers in such forces.

Income of an active member of the U.S. Armed Forces is exempt from tax if the member dies as a result of wounds, disease, or injury incurred while serving in a combat zone, including certain hazardous duty areas, or wounds or injury incurred in terroristic or military action (IRC Section 692).

THIS BILL

Under this bill, all income from a qualified surviving spouse of a member of the Armed Forces would be exempt from income taxes for the taxable year of the member’s death and the three succeeding taxable years. A qualified surviving spouse would be a taxpayer:

- whose spouse is a member of the Armed Forces of the United States;
- whose spouse died while in active service under circumstances described in IRC Section 692; and
- who has not remarried at any time before the close of the taxable year.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department’s programs and operations.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department’s costs.

ECONOMIC IMPACT

Revenue Estimate

Revenue losses from this bill would be very minor, less than \$10,000 for every 100 deaths of California military personnel.

Revenue Discussion

Due to data limitations and uncertainties regarding future events, revenue losses are based on a per 100 deaths of members of the Armed Forces. For this analysis it is assumed that for every 100 Armed Forces members who die, 75% of those are married and of those married half have spouses who work. Of the spouses who work, it is assumed that they have an adjusted gross income (AGI) of \$32,000 a year (median California AGI for 2000). The average tax for a 2000 joint return with an AGI of \$32,000 was \$166. The revenue loss would be on the order of \$6,200 (100 deaths x 75% married x 50% with working spouse x \$166 average tax revenue loss= \$6,200) for the first tax year.

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